

Office of the Secretary, DOT

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Subpart A—General

§ 298.1 Applicability of part.

This part establishes classifications of air carriers known as “air taxi operators” and “commuter air carriers,” provides certain exemptions to them from some of the economic regulatory

provisions of Subtitle VII of Title 49 of the United States Code (Transportation), specifies procedures by which such air carriers may obtain authority to conduct operations, and establishes rules applicable to their operations in interstate and/or foreign air transportation in all States, Territories and possessions of the United States. This part also establishes reporting requirements for commuter air carriers and small certificated air carriers.

§ 298.2 Definitions.

As used in this part:

Air taxi operator means an air carrier as established by § 298.3(a).

Air transportation means interstate air transportation, foreign air transportation, or the transportation of mail by aircraft as defined by the Statute.¹

¹Interstate air transportation is defined in section 40102(a)(25) as the transportation of passengers or property by aircraft as a common carrier for compensation, or the transportation of mail by aircraft (1) between a place in (i) a State, territory, or possession of the United States and a place in the District of Columbia or another State, territory, or possession of the United States; (ii) Hawaii and another place in Hawaii through the airspace over a place outside Hawaii; (iii) the District of Columbia and another place in the District of Columbia; or (iv) a territory or possession of the United States and another place in the same territory or possession; and (2) when any part of the transportation is by aircraft. **Note:** Operations wholly within the geographic limits of a single State are not considered interstate air transportation if in those operations the carrier transports no more than a *de minimus* volume of passengers or property moving as part of a continuous journey to or from a point outside the State.

Foreign air transportation is defined in section 40102(a)(23) of the Statute as the transportation of passengers or property by aircraft as a common carrier for compensation, or the transportation of mail by aircraft, between a place in the United States and a place outside the United States when any part of the transportation is by aircraft.

Air transportation also is defined to include the transportation of mail by aircraft. Section 5402 of the Postal Reorganization Act, 39 U.S.C. 5402, authorizes the carriage of mail by air taxi operators and commuter air carriers in some circumstances under contract with the U.S. Postal Service.

Aircraft-hours means the airborne hours of aircraft computed from the moment an aircraft leaves the ground until it touches the ground at the end of a flight stage.

Aircraft miles means the miles (computed in airport-to-airport distances) for each flight stage actually completed, whether or not performed in accordance with the scheduled pattern.

Certificated air carrier means an air carrier holding a certificate issued under section 41102 of the Statute.

Citizen of the United States means:

(1) An individual who is a citizen of the United States;

(2) A partnership each of whose partners is an individual who is a citizen of the United States; or

(3) A corporation or association organized under the laws of the United States or a state, the District of Columbia, or a territory or possession of the United States, of which the president and at least two-thirds of the board of directors and other managing officers are citizens of the United States, which is under the actual control of citizens of the United States, and in which at least 75 percent of the voting interest is owned or controlled by persons that are citizens of the United States.

Commuter air carrier means an air carrier as established by § 298.3(b) that carries passengers on at least five round trips per week on at least one route between two or more points according to its published flight schedules that specify the times, days of the week, and places between which those flights are performed.

Departure means takeoff from an airport.

Eligible place means a place in the United States that—

(1)(i) Was an eligible point under section 419 of the Federal Aviation Act of 1958 as in effect before October 1, 1988;

(ii) Received scheduled air transportation at any time after January 1, 1990; and

(iii) Is not listed in Department of Transportation Orders 89–9–37 and 89–12–52 as a place ineligible for compensation under Subchapter II of Chapter 417 of the Statute; or

(2) Was determined, on or after October 1, 1988, and before the date of the

enactment of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, by the Department to be eligible to receive subsidized small community air service under section 41736(a) of the Statute.

Flight stage means the operation of an aircraft from takeoff to landing.

Large aircraft means any aircraft originally designed to have a maximum passenger capacity of more than 60 seats or a maximum payload capacity of more than 18,000 pounds.

Maximum certificated takeoff weight means the maximum takeoff weight authorized by the terms of the aircraft airworthiness certificate.²

Maximum passenger capacity means the maximum number of passenger seats for which an aircraft is configured.

Maximum payload capacity means: (1) The maximum certificated take-off weight of an aircraft, less the empty weight,³ less all justifiable aircraft equipment, and less the operating load (consisting of minimum fuel load, oil, flight crew, steward's supplies, etc.). For purposes of this part, the allowance for the weight of the crew, oil, and fuel is as follows:

(i) Crew—200 pounds per crew member required under FAA regulations,

(ii) Oil—350 pounds,

(iii) Fuel—the minimum weight of fuel required under FAA regulations for a flight between domestic points 200 miles apart,⁴

(2) *Provided, however*, That in the case of aircraft for which a maximum zero fuel weight is prescribed by the FAA,⁵

²This weight may be found in the airplane operating record or in the airplane flight manual, which is incorporated by regulation into the airworthiness certificate.

³Empty weight is defined in section 03 of part 241 as follows: the weight of the airframe, engines, propellers, and fixed equipment. Empty weight excludes the weight of the crew and payload, but includes the weight of all fixed ballast, unusable fuel supply, undrainable oil, total quantity of engine coolant, and total quantity of hydraulic fluid.

⁴Assumes VFR weather conditions and flights not involving extended overwater operations.

⁵The maximum zero fuel weight is the maximum permissible weight of an airplane with no disposable fuel or oil. The zero fuel

maximum payload capacity means the maximum zero fuel weight, less the empty weight, less all justifiable aircraft equipment, and less the operating load (consisting of minimum flight crew, steward's supplies, etc., but not including disposable fuel or oil).

Mile means a statute mile, *i.e.*, 5,280 feet.

Nonrevenue passenger means a person traveling free or under token charges, except those expressly named in the definition of revenue passenger; a person traveling at a fare or discount available only to employees or authorized persons of air carriers or their agents or only for travel on the business of the carriers; and an infant who does not occupy a seat. (This definition is for 14 CFR part 298 traffic-reporting purposes and may differ from the definitions used in other parts by the Federal Aviation Administration and the Transportation Security Administration for the collection of Passenger Facility Charges and Security Fees.) The definition includes, but is not limited to, the following examples of passengers when traveling free or pursuant to token charges:

- (1) Directors, officers, employees, and others authorized by the air carrier operating the aircraft;
- (2) Directors, officers, employees, and others authorized by the air carrier or another carrier traveling pursuant to a pass interchange agreement;
- (3) Travel agents being transported for the purpose of familiarizing themselves with the carrier's services;
- (4) Witnesses and attorneys attending any legal investigation in which such carrier is involved;
- (5) Persons injured in aircraft accidents, and physicians, nurses, and others attending such persons;
- (6) Any persons transported with the object of providing relief in cases of general epidemic, natural disaster, or other catastrophe;
- (7) Any law enforcement official, including any person who has the duty of guarding government officials who are traveling on official business or traveling to or from such duty;

weight figure may be found in the FAA's type certificate data sheets, and/or in FAA-approved flight manuals.

(8) Guests of an air carrier on an inaugural flight or delivery flights of newly-acquired or renovated aircraft;

(9) Security guards who have been assigned the duty to guard such aircraft against unlawful seizure, sabotage, or other unlawful interference;

(10) Safety inspectors of the National Transportation Safety Board or the FAA in their official duties or traveling to or from such duty;

(11) Postal employees on duty in charge of the mails or traveling to or from such duty;

(12) Technical representatives of companies that have been engaged in the manufacture, development or testing of a particular type of aircraft or aircraft equipment, when the transportation is provided for the purpose of in-flight observation and subject to applicable FAA regulations;

(13) Persons engaged in promoting air transportation;

(14) Air marshals and other Transportation Security officials acting in their official capacities and while traveling to and from their official duties; and

(15) Other authorized persons, when such transportation is undertaken for promotional purpose.

Passengers carried means passengers on board each flight stage.

Point when used in connection with any territory or possession of the United States, or the States of Alaska and Hawaii, means any airport or place where aircraft may be landed or taken off, including the area within a 25-mile radius of such airport or place; when used in connection with the continental United States, except Alaska, it shall have the same meaning except be limited to the area within a 3-mile radius of such airport or place: Provided, That for the purposes of this part, West 30th Street Heliport and Pan Am Building Heliport, both located in New York City, shall be regarded as separate points.

Reporting carrier for Schedule T-100 purposes means the air carrier in operational control of the flight, *i.e.*, the carrier that uses its flight crews under its own FAA operating authority.

Revenue passenger means a passenger for whose transportation an air carrier receives commercial remuneration. (This definition is for 14 CFR part 298

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traffic-reporting purposes and may differ from the definitions used in other parts by the Federal Aviation Administration and the Transportation Security Administration for the collection of Passenger Facility Charges and Security Fees.) This includes, but is not limited to, the following examples:

- (1) Passengers traveling under publicly available tickets including promotional offers (for example two-for-one) or loyalty programs (for example, redemption of frequent flyer points);
- (2) Passengers traveling on vouchers or tickets issued as compensation for denied boarding or in response to consumer complaints or claims;
- (3) Passengers traveling at corporate discounts;
- (4) Passengers traveling on preferential fares (Government, seamen, military, youth, student, etc.);
- (5) Passengers traveling on barter tickets; and
- (6) Infants traveling on confirmed-space tickets.

Revenue passenger-mile means one revenue passenger transported one mile. Revenue passenger-miles are computed by multiplying the aircraft miles flown on each flight stage by the number of revenue passengers carried on that flight stage.

Revenue seat-miles available means the aircraft-miles flown on each flight stage multiplied by the number of seats available for sale on that flight stage.

Revenue ton-mile means one ton of revenue traffic transported one mile. Revenue ton-miles are computed by multiplying the aircraft-miles flown on each flight stage by the number of pounds of revenue traffic carried on that flight stage and converted to ton-miles by dividing total revenue pound-miles by 2,000 pounds.

Revenue ton-miles available means the aircraft-miles flown on each flight stage multiplied by the number of pounds of aircraft capacity available for use on that stage and converted to ton-miles by dividing total pound-miles available by 2,000 pounds.

Scheduled service means transport service operated over routes pursuant to published flight schedules or pursuant to mail contracts with the U.S. Postal Service.

Small aircraft means any aircraft originally designed to have a maximum passenger capacity of 60 seats or less or a maximum payload capacity of 18,000 pounds or less.

Small certificated air carrier means an air carrier holding a certificate issued under section 41102 of the Statute that provides scheduled passenger air service within and between only the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands with small aircraft as defined in this section.

Statute means Subtitle VII of Title 49 of the United States Code (Transportation).

Ton means a short ton, i.e., 2,000 pounds.

Wet-Lease Agreement means an agreement under which one carrier leases an aircraft with flight crew to another air carrier.

§ 298.3 Classification.

(a) There is hereby established a classification of air carriers, designated as “air taxi operators,” which directly engage in the air transportation of persons or property or mail or in any combination of such transportation and which:

(1) Do not directly or indirectly utilize large aircraft in air transportation;

(2) Do not hold a certificate of public convenience and necessity and do not engage in scheduled passenger operations as specified in paragraph (b) of this section;

(3) Have and maintain in effect liability insurance coverage in compliance with the requirements set forth in part 205 of this chapter and have and maintain a current certificate of insurance evidencing such coverage on file with the Department;

(4) If operating in foreign air transportation or participating in an interline agreement, subscribe to Agreement 18900 (OST Form 4523 or OST Form 4507) and comply with all other requirements of part 203 of this chapter; and

(5) Have registered with the Department in accordance with subpart C of this part.

(b) There is hereby established a classification of air carriers, designated as